

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 20, 2016

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 30, 2016

SENATE BILL

No. 1000

Introduced by Senator Leyva

(Principal coauthor: Assembly Member Medina)

February 10, 2016

An act to amend Section 65302 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1000, as amended, Leyva. Land use: general plans: environmental justice.

(1) The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning. That law requires this general plan to include several elements, including, among others, land use, open-space, safety, and conservation elements, which are required to meet specified requirements.

This bill would add to the required elements of the general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The bill would also require the environmental justice element, or related environmental justice goals, policies, and

objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities, as specified, identify objectives and policies to promote civil engagement in the public decisionmaking process, and identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities. The bill would require the environmental justice element, or the ~~environment~~ *environmental* justice goals, policies, and objectives in other elements, to be adopted or reviewed upon the adoption or next revision of ~~two~~ 2 or more elements *concurrently* on or after January 1, 2018. ~~The bill would authorize a city, county, or city and county that has adopted an environmental justice element, or environmental justice goals, policies, and objectives in other elements in its general plan or related documents that substantially complies with the above described requirements to use that information to comply with these requirements~~ By adding to the duties of county and city officials, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65302 of the Government Code is
 2 amended to read:
 3 65302. The general plan shall consist of a statement of
 4 development policies and shall include a diagram or diagrams and
 5 text setting forth objectives, principles, standards, and plan
 6 proposals. The plan shall include the following elements:
 7 (a) A land use element that designates the proposed general
 8 distribution and general location and extent of the uses of the land
 9 for housing, business, industry, open space, including agriculture,
 10 natural resources, recreation, and enjoyment of scenic beauty,
 11 education, public buildings and grounds, solid and liquid waste
 12 disposal facilities, and other categories of public and private uses
 13 of land. The location and designation of the extent of the uses of

1 the land for public and private uses shall consider the identification
2 of land and natural resources pursuant to paragraph (3) of
3 subdivision (d). The land use element shall include a statement of
4 the standards of population density and building intensity
5 recommended for the various districts and other territory covered
6 by the plan. The land use element shall identify and annually
7 review those areas covered by the plan that are subject to flooding
8 identified by flood plain mapping prepared by the Federal
9 Emergency Management Agency (FEMA) or the Department of
10 Water Resources. The land use element shall also do both of the
11 following:

12 (1) Designate in a land use category that provides for timber
13 production those parcels of real property zoned for timberland
14 production pursuant to the California Timberland Productivity Act
15 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
16 of Division 1 of Title 5).

17 (2) Consider the impact of new growth on military readiness
18 activities carried out on military bases, installations, and operating
19 and training areas, when proposing zoning ordinances or
20 designating land uses covered by the general plan for land, or other
21 territory adjacent to military facilities, or underlying designated
22 military aviation routes and airspace.

23 (A) In determining the impact of new growth on military
24 readiness activities, information provided by military facilities
25 shall be considered. Cities and counties shall address military
26 impacts based on information from the military and other sources.

27 (B) The following definitions govern this paragraph:

28 (i) “Military readiness activities” mean all of the following:

29 (I) Training, support, and operations that prepare the men and
30 women of the military for combat.

31 (II) Operation, maintenance, and security of any military
32 installation.

33 (III) Testing of military equipment, vehicles, weapons, and
34 sensors for proper operation or suitability for combat use.

35 (ii) “Military installation” means a base, camp, post, station,
36 yard, center, homeport facility for any ship, or other activity under
37 the jurisdiction of the United States Department of Defense as
38 defined in paragraph (1) of subsection (g) of Section 2687 of Title
39 10 of the United States Code.

1 (b) (1) A circulation element consisting of the general location
2 and extent of existing and proposed major thoroughfares,
3 transportation routes, terminals, any military airports and ports,
4 and other local public utilities and facilities, all correlated with the
5 land use element of the plan.

6 (2) (A) Commencing January 1, 2011, upon any substantive
7 revision of the circulation element, the legislative body shall
8 modify the circulation element to plan for a balanced, multimodal
9 transportation network that meets the needs of all users of streets,
10 roads, and highways for safe and convenient travel in a manner
11 that is suitable to the rural, suburban, or urban context of the
12 general plan.

13 (B) For purposes of this paragraph, “users of streets, roads, and
14 highways” mean bicyclists, children, persons with disabilities,
15 motorists, movers of commercial goods, pedestrians, users of public
16 transportation, and seniors.

17 (c) A housing element as provided in Article 10.6 (commencing
18 with Section 65580).

19 (d) (1) A conservation element for the conservation,
20 development, and utilization of natural resources including water
21 and its hydraulic force, forests, soils, rivers and other waters,
22 harbors, fisheries, wildlife, minerals, and other natural resources.
23 The conservation element shall consider the effect of development
24 within the jurisdiction, as described in the land use element, on
25 natural resources located on public lands, including military
26 installations. That portion of the conservation element including
27 waters shall be developed in coordination with any countywide
28 water agency and with all district and city agencies, including
29 flood management, water conservation, or groundwater agencies
30 that have developed, served, controlled, managed, or conserved
31 water of any type for any purpose in the county or city for which
32 the plan is prepared. Coordination shall include the discussion and
33 evaluation of any water supply and demand information described
34 in Section 65352.5, if that information has been submitted by the
35 water agency to the city or county.

36 (2) The conservation element may also cover all of the
37 following:

38 (A) The reclamation of land and waters.

39 (B) Prevention and control of the pollution of streams and other
40 waters.

1 (C) Regulation of the use of land in stream channels and other
2 areas required for the accomplishment of the conservation plan.

3 (D) Prevention, control, and correction of the erosion of soils,
4 beaches, and shores.

5 (E) Protection of watersheds.

6 (F) The location, quantity and quality of the rock, sand, and
7 gravel resources.

8 (3) Upon the next revision of the housing element on or after
9 January 1, 2009, the conservation element shall identify rivers,
10 creeks, streams, flood corridors, riparian habitats, and land that
11 may accommodate floodwater for purposes of groundwater
12 recharge and stormwater management.

13 (e) An open-space element as provided in Article 10.5
14 (commencing with Section 65560).

15 (f) (1) A noise element that shall identify and appraise noise
16 problems in the community. The noise element shall analyze and
17 quantify, to the extent practicable, as determined by the legislative
18 body, current and projected noise levels for all of the following
19 sources:

20 (A) Highways and freeways.

21 (B) Primary arterials and major local streets.

22 (C) Passenger and freight online railroad operations and ground
23 rapid transit systems.

24 (D) Commercial, general aviation, heliport, helistop, and military
25 airport operations, aircraft overflights, jet engine test stands, and
26 all other ground facilities and maintenance functions related to
27 airport operation.

28 (E) Local industrial plants, including, but not limited to, railroad
29 classification yards.

30 (F) Other ground stationary noise sources, including, but not
31 limited to, military installations, identified by local agencies as
32 contributing to the community noise environment.

33 (2) Noise contours shall be shown for all of these sources and
34 stated in terms of community noise equivalent level (CNEL) or
35 day-night average sound level (L_{dn}). The noise contours shall be
36 prepared on the basis of noise monitoring or following generally
37 accepted noise modeling techniques for the various sources
38 identified in paragraphs (1) to (6), inclusive.

1 (3) The noise contours shall be used as a guide for establishing
2 a pattern of land uses in the land use element that minimizes the
3 exposure of community residents to excessive noise.

4 (4) The noise element shall include implementation measures
5 and possible solutions that address existing and foreseeable noise
6 problems, if any. The adopted noise element shall serve as a
7 guideline for compliance with the state's noise insulation standards.

8 (g) (1) A safety element for the protection of the community
9 from any unreasonable risks associated with the effects of
10 seismically induced surface rupture, ground shaking, ground
11 failure, tsunami, seiche, and dam failure; slope instability leading
12 to mudslides and landslides; subsidence; liquefaction; and other
13 seismic hazards identified pursuant to Chapter 7.8 (commencing
14 with Section 2690) of Division 2 of the Public Resources Code,
15 and other geologic hazards known to the legislative body; flooding;
16 and wildland and urban fires. The safety element shall include
17 mapping of known seismic and other geologic hazards. It shall
18 also address evacuation routes, military installations, peakload
19 water supply requirements, and minimum road widths and
20 clearances around structures, as those items relate to identified fire
21 and geologic hazards.

22 (2) The safety element, upon the next revision of the housing
23 element on or after January 1, 2009, shall also do the following:

24 (A) Identify information regarding flood hazards, including,
25 but not limited to, the following:

26 (i) Flood hazard zones. As used in this subdivision, "flood
27 hazard zone" means an area subject to flooding that is delineated
28 as either a special hazard area or an area of moderate or minimal
29 hazard on an official flood insurance rate map issued by the Federal
30 Emergency Management Agency (FEMA). The identification of
31 a flood hazard zone does not imply that areas outside the flood
32 hazard zones or uses permitted within flood hazard zones will be
33 free from flooding or flood damage.

34 (ii) National Flood Insurance Program maps published by
35 FEMA.

36 (iii) Information about flood hazards that is available from the
37 United States Army Corps of Engineers.

38 (iv) Designated floodway maps that are available from the
39 Central Valley Flood Protection Board.

- 1 (v) Dam failure inundation maps prepared pursuant to Section
- 2 8589.5 that are available from the Office of Emergency Services.
- 3 (vi) Awareness Floodplain Mapping Program maps and 200-year
- 4 flood plain maps that are or may be available from, or accepted
- 5 by, the Department of Water Resources.
- 6 (vii) Maps of levee protection zones.
- 7 (viii) Areas subject to inundation in the event of the failure of
- 8 project or nonproject levees or floodwalls.
- 9 (ix) Historical data on flooding, including locally prepared maps
- 10 of areas that are subject to flooding, areas that are vulnerable to
- 11 flooding after wildfires, and sites that have been repeatedly
- 12 damaged by flooding.
- 13 (x) Existing and planned development in flood hazard zones,
- 14 including structures, roads, utilities, and essential public facilities.
- 15 (xi) Local, state, and federal agencies with responsibility for
- 16 flood protection, including special districts and local offices of
- 17 emergency services.
- 18 (B) Establish a set of comprehensive goals, policies, and
- 19 objectives based on the information identified pursuant to
- 20 subparagraph (A), for the protection of the community from the
- 21 unreasonable risks of flooding, including, but not limited to:
- 22 (i) Avoiding or minimizing the risks of flooding to new
- 23 development.
- 24 (ii) Evaluating whether new development should be located in
- 25 flood hazard zones, and identifying construction methods or other
- 26 methods to minimize damage if new development is located in
- 27 flood hazard zones.
- 28 (iii) Maintaining the structural and operational integrity of
- 29 essential public facilities during flooding.
- 30 (iv) Locating, when feasible, new essential public facilities
- 31 outside of flood hazard zones, including hospitals and health care
- 32 facilities, emergency shelters, fire stations, emergency command
- 33 centers, and emergency communications facilities or identifying
- 34 construction methods or other methods to minimize damage if
- 35 these facilities are located in flood hazard zones.
- 36 (v) Establishing cooperative working relationships among public
- 37 agencies with responsibility for flood protection.
- 38 (C) Establish a set of feasible implementation measures designed
- 39 to carry out the goals, policies, and objectives established pursuant
- 40 to subparagraph (B).

1 (3) Upon the next revision of the housing element on or after
2 January 1, 2014, the safety element shall be reviewed and updated
3 as necessary to address the risk of fire for land classified as state
4 responsibility areas, as defined in Section 4102 of the Public
5 Resources Code, and land classified as very high fire hazard
6 severity zones, as defined in Section 51177. This review shall
7 consider the advice included in the Office of Planning and
8 Research's most recent publication of "Fire Hazard Planning,
9 General Plan Technical Advice Series" and shall also include all
10 of the following:

11 (A) Information regarding fire hazards, including, but not limited
12 to, all of the following:

13 (i) Fire hazard severity zone maps available from the Department
14 of Forestry and Fire Protection.

15 (ii) Any historical data on wildfires available from local
16 agencies or a reference to where the data can be found.

17 (iii) Information about wildfire hazard areas that may be
18 available from the United States Geological Survey.

19 (iv) General location and distribution of existing and planned
20 uses of land in very high fire hazard severity zones and in state
21 responsibility areas, including structures, roads, utilities, and
22 essential public facilities. The location and distribution of planned
23 uses of land shall not require defensible space compliance measures
24 required by state law or local ordinance to occur on publicly owned
25 lands or open-space designations of homeowner associations.

26 (v) Local, state, and federal agencies with responsibility for fire
27 protection, including special districts and local offices of
28 emergency services.

29 (B) A set of goals, policies, and objectives based on the
30 information identified pursuant to subparagraph (A) for the
31 protection of the community from the unreasonable risk of wildfire.

32 (C) A set of feasible implementation measures designed to carry
33 out the goals, policies, and objectives based on the information
34 identified pursuant to subparagraph (B) including, but not limited
35 to, all of the following:

36 (i) Avoiding or minimizing the wildfire hazards associated with
37 new uses of land.

38 (ii) Locating, when feasible, new essential public facilities
39 outside of high fire risk areas, including, but not limited to,
40 hospitals and health care facilities, emergency shelters, emergency

1 command centers, and emergency communications facilities, or
2 identifying construction methods or other methods to minimize
3 damage if these facilities are located in a state responsibility area
4 or very high fire hazard severity zone.

5 (iii) Designing adequate infrastructure if a new development is
6 located in a state responsibility area or in a very high fire hazard
7 severity zone, including safe access for emergency response
8 vehicles, visible street signs, and water supplies for structural fire
9 suppression.

10 (iv) Working cooperatively with public agencies with
11 responsibility for fire protection.

12 (D) If a city or county has adopted a fire safety plan or document
13 separate from the general plan, an attachment of, or reference to,
14 a city or county’s adopted fire safety plan or document that fulfills
15 commensurate goals and objectives and contains information
16 required pursuant to this paragraph.

17 (4) Upon the next revision of a local hazard mitigation plan,
18 adopted in accordance with the federal Disaster Mitigation Act of
19 2000 (Public Law 106-390), on or after January 1, 2017, or, if a
20 local jurisdiction has not adopted a local hazard mitigation plan,
21 beginning on or before January 1, 2022, the safety element shall
22 be reviewed and updated as necessary to address climate adaptation
23 and resiliency strategies applicable to the city or county. This
24 review shall consider advice provided in the Office of Planning
25 and Research’s General Plan Guidelines and shall include all of
26 the following:

27 (A) (i) A vulnerability assessment that identifies the risks that
28 climate change poses to the local jurisdiction and the geographic
29 areas at risk from climate change impacts, including, but not limited
30 to, an assessment of how climate change may affect the risks
31 addressed pursuant to paragraphs (2) and (3).

32 (ii) Information that may be available from federal, state,
33 regional, and local agencies that will assist in developing the
34 vulnerability assessment and the adaptation policies and strategies
35 required pursuant to subparagraph (B), including, but not limited
36 to, all of the following:

37 (I) Information from the Internet-based Cal-Adapt tool.

38 (II) Information from the most recent version of the California
39 Adaptation Planning Guide.

1 (III) Information from local agencies on the types of assets,
2 resources, and populations that will be sensitive to various climate
3 change exposures.

4 (IV) Information from local agencies on their current ability to
5 deal with the impacts of climate change.

6 (V) Historical data on natural events and hazards, including
7 locally prepared maps of areas subject to previous risk, areas that
8 are vulnerable, and sites that have been repeatedly damaged.

9 (VI) Existing and planned development in identified at-risk
10 areas, including structures, roads, utilities, and essential public
11 facilities.

12 (VII) Federal, state, regional, and local agencies with
13 responsibility for the protection of public health and safety and
14 the environment, including special districts and local offices of
15 emergency services.

16 (B) A set of adaptation and resilience goals, policies, and
17 objectives based on the information specified in subparagraph (A)
18 for the protection of the community.

19 (C) A set of feasible implementation measures designed to carry
20 out the goals, policies, and objectives identified pursuant to
21 subparagraph (B) including, but not limited to, all of the following:

22 (i) Feasible methods to avoid or minimize climate change
23 impacts associated with new uses of land.

24 (ii) The location, when feasible, of new essential public facilities
25 outside of at-risk areas, including, but not limited to, hospitals and
26 health care facilities, emergency shelters, emergency command
27 centers, and emergency communications facilities, or identifying
28 construction methods or other methods to minimize damage if
29 these facilities are located in at-risk areas.

30 (iii) The designation of adequate and feasible infrastructure
31 located in an at-risk area.

32 (iv) Guidelines for working cooperatively with relevant local,
33 regional, state, and federal agencies.

34 (v) The identification of natural infrastructure that may be used
35 in adaptation projects, where feasible. Where feasible, the plan
36 shall use existing natural features and ecosystem processes, or the
37 restoration of natural features and ecosystem processes, when
38 developing alternatives for consideration. For the purposes of this
39 clause, “natural infrastructure” means the preservation or
40 restoration of ecological systems, or utilization of engineered

1 systems that use ecological processes, to increase resiliency to
2 climate change, manage other environmental hazards, or both.
3 This may include, but is not limited to, floodplain and wetlands
4 restoration or preservation, combining levees with restored natural
5 systems to reduce flood risk, and urban tree planting to mitigate
6 high heat days.

7 (D) (i) If a city or county has adopted the local hazard
8 mitigation plan, or other climate adaptation plan or document that
9 fulfills commensurate goals and objectives and contains the
10 information required pursuant to this paragraph, separate from the
11 general plan, an attachment of, or reference to, the local hazard
12 mitigation plan or other climate adaptation plan or document.

13 (ii) Cities or counties that have an adopted hazard mitigation
14 plan, or other climate adaptation plan or document that substantially
15 complies with this section, or have substantially equivalent
16 provisions to this subdivision in their general plans, may use that
17 information in the safety element to comply with this subdivision,
18 and shall summarize and incorporate by reference into the safety
19 element the other general plan provisions, climate adaptation plan
20 or document, specifically showing how each requirement of this
21 subdivision has been met.

22 (5) After the initial revision of the safety element pursuant to
23 paragraphs (2), (3), and (4) upon each revision of the housing
24 element, the planning agency shall review and, if necessary, revise
25 the safety element to identify new information that was not
26 available during the previous revision of the safety element.

27 (6) Cities and counties that have flood plain management
28 ordinances that have been approved by FEMA that substantially
29 comply with this section, or have substantially equivalent
30 provisions to this subdivision in their general plans, may use that
31 information in the safety element to comply with this subdivision,
32 and shall summarize and incorporate by reference into the safety
33 element the other general plan provisions or the flood plain
34 ordinance, specifically showing how each requirement of this
35 subdivision has been met.

36 (7) Prior to the periodic review of its general plan and prior to
37 preparing or revising its safety element, each city and county shall
38 consult the California Geological Survey of the Department of
39 Conservation, the Central Valley Flood Protection Board, if the
40 city or county is located within the boundaries of the Sacramento

1 and San Joaquin Drainage District, as set forth in Section 8501 of
 2 the Water Code, and the Office of Emergency Services for the
 3 purpose of including information known by and available to the
 4 department, the agency, and the board required by this subdivision.

5 (8) To the extent that a county's safety element is sufficiently
 6 detailed and contains appropriate policies and programs for
 7 adoption by a city, a city may adopt that portion of the county's
 8 safety element that pertains to the city's planning area in
 9 satisfaction of the requirement imposed by this subdivision.

10 (h) (1) An environmental justice element, or related goals,
 11 policies, and objectives integrated in other elements, that identifies
 12 disadvantaged communities within the area covered by the general
 13 plan of the city, county, or city and county, if the city, county, or
 14 city and county has a disadvantaged community. The
 15 environmental justice element, or related environmental justice
 16 goals, policies, and objectives integrated in other elements, shall
 17 do all of the following:

18 (A) Identify objectives and policies to reduce the unique or
 19 compounded health risks in disadvantaged communities by means
 20 that include, but are not limited to, the reduction of pollution
 21 exposure, including the improvement of air quality, and the
 22 promotion of public facilities, food access, safe and sanitary homes,
 23 and physical activity.

24 (B) Identify objectives and policies to promote civil engagement
 25 in the public decisionmaking process.

26 (C) Identify objectives and policies that prioritize improvements
 27 and programs that address the needs of disadvantaged communities.

28 (2) A city, county, or city and county subject to this subdivision
 29 shall adopt or review the environmental justice element, or the
 30 environmental justice goals, policies, and objectives in other
 31 elements, upon the adoption or next revision of two or more
 32 elements *concurrently* on or after January 1, 2018.

33 ~~(3) A city, county, or city and county that has adopted an~~
 34 ~~environmental justice element, or environmental justice goals,~~
 35 ~~policies, and objectives in other elements, in its general plan or~~
 36 ~~related documents, that substantially complies with this subdivision~~
 37 ~~may use that information to comply with this subdivision.~~

38 (4)

39 (3) For purposes of this subdivision, the following terms shall
 40 apply:

1 (A) “Disadvantaged communities” means an area identified by
2 the California Environmental Protection Agency pursuant to
3 Section 39711 of the Health and Safety Code or an area that is a
4 low-income area that is disproportionately affected by
5 environmental pollution and other hazards that can lead to negative
6 health effects, exposure, or environmental degradation.

7 (B) “Public facilities” includes public improvements, public
8 services, and community amenities, as defined in subdivision (d)
9 of Section 66000.

10 (C) “*Low-income area*” means an area with household incomes
11 at or below 80 percent of the statewide median income or with
12 household incomes at or below the threshold designated as low
13 income by the Department of Housing and Community
14 Development’s list of state income limits adopted pursuant to
15 Section 50093.

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of Section
21 17556 of the Government Code.